

Colorado Department of Transportation

STATE MANAGEMENT PLAN

For:

**Section 5310, Capital Assistance Program for the Transportation of Elderly
Persons and Persons with Disabilities**

Section 5311, Non-urbanized Area Public Transportation Program

Section 5316, Job Access and Reverse Commute Program

Section 5317, New Freedoms Program

Spring 2009

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PART 1.0

INTRODUCTION

1.1 Purpose

The purpose of the State Management Plan (SMP), as set forth in FTA Circular 9040.1F, is to describe the State's objectives, policies, procedures and administrative requirements for the Section 5310, Section 5311, Section 5316, and Section 5317 programs. CDOT also manages the section 5304 program for planning.

1.2 SMP Development

The core of the SMP was originally developed by the Department in a collaborative process utilizing the State Management Plan Advisory Committee, a group formed to advise and comment the Department on developing its policies and procedures for administering these programs. This group was comprised representatives from state government, public and private nonprofit transportation providers, councils of governments, the Colorado Association of Transit Agencies (CASTA), and private for profit operators, and represented a cross-section of parties interested in transit.

Additions and changes to the SMP are discussed annually at the Department's Policy Options Workshops. These "Policy Options Workshops" are conducted in the spring in four different locations across the state. The Department uses these meetings to discuss with interested parties the policies, procedures, performance, and administration of the FTA programs. All public and private transit operators, local governments, trade associations, councils of governments, MPOs, and persons interested in transit are invited to attend the Policy Option Workshop. The Department considers comments and input received during these meetings into its policies and procedures for administering the grant programs. A copy of the agenda from the most recent Policy Options Workshop and Discussion Paper summary is attached as Exhibit 1.

1.3 Authority

The Colorado Department of Transportation (CDOT) is the designated state agency for the administration of funds provided under Sections 5310, 5311, 5316, and 5317 of the Federal Transit Act, as amended. The designation was made through Senate Bill 529 passed during the 1979 Colorado legislative session and signed by Governor Richard D. Lamm (CRS 43-1-701 and 43-1-702), attached as Exhibit 2.

1.4 Framework

CDOT has published Rules and Regulations (hereinafter referred to as the Rules) for the Sections 5310, 5311, 5316 and 5317 programs, which provide a formal administrative framework for the programs. The purpose of the Rules is to inform the general public, eligible recipients and other interested parties of the program requirements, administrative procedures, timetables and selection process for the programs. The Rules are adopted through formal procedures specified in the State's Administrative Procedures Act, which prescribes a formal public hearing process. A copy of the current adopted Rules is attached as Exhibit 3. Any future revisions to these Rules will be submitted as a revised attachment to this document.

The State also utilizes another primary document, the CDOT Application Instructions and Grant Guidelines, which provides guidance to potential and existing grant recipients. A copy of the current application instructions is attached as Exhibit 4. Any future revisions to these instructions will be submitted as a revised attachment to this document.

1.5 Goals for Transportation of Elderly Persons and Persons with Disabilities Program, Section 5310

The federal goal of the Section 5310 program is to provide assistance in meeting the transportation needs of elderly persons and persons with disabilities where such services are unavailable, insufficient, or inappropriate. The Section 5310 program is designed to coordinate with and complement other FTA capital assistance programs by funding eligible transportation projects in all areas – urbanized, small urban and rural. The State concurs with this goal.

The following goals were established to give direction to the State in its policy and programs for transportation. They were used as a guide to develop this State Management Plan.

1. Provide quality transportation in Colorado to meet the needs of elderly persons, persons with disabilities, and other transportation disadvantaged persons, especially those without ready access to other means of transportation.
2. Preserve and upgrade existing transportation services and facilities, and encourage new and innovative forms of transportation.
3. Ensure that private sector transportation operators, minority organizations, disadvantaged business enterprises and the public have the maximum feasible opportunity to participate in the design, provision and evaluation of public transportation services.
4. Maximize the degree of coordination at both the state and local level in the provision of transportation services.
5. Ensure a fair and equitable distribution of the Section 5310 funds across the state.
6. Ensure that services are made widely available and not directly or indirectly limited to a particular client or population group.

1.6 Goals for Public Transportation Program, Section 5311

The federal goal of the Section 5311 program is to enhance the access of people in nonurbanized areas to health care, shopping, education, recreation, public services and employment by encouraging the development, maintenance, improvement, and use of public transportation services. The State concurs with this goal.

The following goals were established to give direction to the State in its policy and programs for public transportation. They were used as a guide to develop this State Management Plan.

1. Provide quality public transportation in Colorado to meet the needs of the general traveling public, especially those without ready access to other means of transportation.
2. Provide for transit needs of special groups, particularly elderly persons, persons with disabilities, minority and low-income persons, and other transportation disadvantaged persons.
3. Preserve and upgrade existing public transportation services and facilities, and encourage

new and innovative forms of public transportation.

4. Ensure that private sector transportation operators, minority organizations, consumers and disadvantaged business enterprises and the public have the maximum feasible opportunity to participate in the design, provision and evaluation of public transportation services.
5. Maximize the degree of coordination at both the state and local level in the provision of transportation services.
6. Ensure a fair and equitable distribution of Section 5311 funds across the state.
7. Ensure that services are made widely available and not directly or indirectly limited to a particular client or population group.

1.7 Goals for Job Access and Reverse Commute (JARC), Section 5316

As designated recipient, the Transit Unit, Division of Transportation Development, Colorado Department of Transportation (CDOT), is the managing entity for non-urbanized and small-urbanized Job Access and Reverse Commute (Section 5316) program in Colorado.

The Department's overall goal is to meet FTA's program goals for JARC funding, specifically:

To improve access to transportation services to employment and employment related activities for welfare recipients and low-income individuals.

Furthermore, the Department concurs with and supports the Policies, Findings, and Purposes described under SAFETEA-LU, the enabling legislation that governs these funds. In this regard, Department policy promotes and encourages projects that meet the program goal stated above and that also "foster the development and revitalization of public transportation systems that:

- Maximize the safe, secure, and efficient mobility of individuals;
- Minimize environmental impacts; and
- Minimize transportation-related fuel consumption and reliance on foreign oil ¹

The JARC program requires coordination of federally assisted programs and services in order to make the most efficient use of federal resources.

The Department's objectives for the JARC program include promoting a strategic and systematic approach to program/project development. The applications for these programs ask a series of problem solving/decision-making questions specific to the applicant's proposal. This is intended to encourage the applicant to design and develop their JARC project in a methodical way—and to fully articulate how their proposal meets FTA program goals.

Public comment on the development and maintenance of these programs is routinely sought in a variety of forums, including twice-yearly conferences, annual Policy Options Workshops, teleconferences, and within the framework of CDOT's statewide planning processes.

1.8 Goals for New Freedom Program, Section 5317

¹ Citation: 49 CFR, Subtitle III, Chapter 53, *Public Transportation*, Section 3003, "Policies, Findings, and Purposes."

As designated recipient, the Transit Unit, Division of Transportation Development, Colorado Department of Transportation (CDOT), is the managing entity for non-urbanized and small-urbanized New Freedom (Section 5317) program in Colorado.

The goals for the New Freedom Program are:

To expand the transportation mobility options available to persons with disabilities beyond the requirements of the Americans with Disabilities Act of 1990.

Furthermore, the Department concurs with and supports the Policies, Findings, and Purposes described under SAFETEA-LU, the enabling legislation that governs these funds. In this regard, Department policy promotes and encourages projects that meet the program goal stated above and that also “foster the development and revitalization of public transportation systems that:

- Maximize the safe, secure, and efficient mobility of individuals;
- Minimize environmental impacts; and
- Minimize transportation-related fuel consumption and reliance on foreign oil ²

The New Freedom program requires coordination of federally assisted programs and services in order to make the most efficient use of federal resources.

The Department’s objectives for the New Freedom program include promoting a strategic and systematic approach to program/project development. The applications for these programs ask a series of problem solving/decision-making questions specific to the applicant’s proposal. This is intended to encourage the applicant to design and develop their New Freedom project in a methodical way—and to fully articulate how their proposal meets FTA program goals.

Public comment on the development and maintenance of these programs is routinely sought in a variety of forums, including twice-yearly conferences, annual Policy Options Workshops, teleconferences, and within the framework of CDOT’s statewide planning processes.

² Citation: 49 CFR, Subtitle III, Chapter 53, *Public Transportation*, Section 3003, “Policies, Findings, and Purposes.”

PART 2.0

DEFINITION OF TERMS

2.1 Adjusted Funding Request (AFR)

The AFR is the amount determined by CDOT staff to be a reasonable request for funding for each applicant. The AFR is calculated by CDOT using information supplied by an applicant in its application package, the applicant's audit, and previous operating and financial data. The AFR is determined by examining an applicant's three-year expense and revenue history, demonstrated expansion costs, and local funding support. The AFR also includes adjustments for inflation and other relevant factors.

2.2 Administrative Expenses

Expenses related to the planning or administering of a local public transportation project and/or program.

2.3 Applicant

An applicant is an organization which has submitted an application for funding, but which has not yet been awarded a grant for the funding cycle under consideration.

2.4 Capital Equipment Expenses

Capital equipment expenses are those directly related to the purchase of facilities or equipment used for public transportation purposes, including vehicles and related equipment. Capital equipment is limited to items that have a value greater than \$5,000 and a useful life of at least one year. The Department notes the definition of "Capital Expense" in the Rules promulgated for the implementation of the Section 5311 program contains a clerical error and defines "capital expense" as a unit cost over \$500.00, not \$5,000.00.

2.5 Census Designated Place (CDP)

A CDP is a densely settled concentration of population that is not legally incorporated as a political subdivision but is identifiable by a name assigned by the decennial Census.

2.6 Cost Per Passenger Trip

This is the total operating expense (including administration and maintenance) divided by the total annual number of passengers.

2.7 Department

Department means the Colorado Department of Transportation (CDOT).

2.8 Drug and Alcohol

This is the FTA requirement found at 49 CFR Part 655, That recipients of certain FTA funding conduct procedures for detecting the use of drugs and alcohol by safety sensitive employees.

2.9 Federal Interest

Federal interest is the amount of fiduciary involvement in capital equipment purchased with federal funds that is retained by the federal government, through the Department, in order to ensure that capital equipment is used for its intended purpose for a reasonable and appropriate period of time.

2.10 Grantee (also referred to as a subrecipient or recipient)

A grantee is an organization that has applied for and been awarded funds and has executed a contract with the Department.

2.11 High Risk Grantee (may also refer to an applicant or subcontractor)

A Grantee (or applicant or subcontractor) is considered to be "High Risk" if the Department determines or has adequate reason to believe that an organization has or may experience difficulty in carrying out the responsibilities associated with grant management. A High Risk designation would apply if the Department determines that any of the following conditions apply: there is a history of unsatisfactory performance; there is evidence of financial instability; an organization has a management system that does not comply with the standards of the Common Rule 49 CFR/ Chapter 8; or, the organization has otherwise failed to demonstrate its ability to carry out its responsibilities.

2.12 In-kind Contributions

In-kind contributions are property or services contributed to a grantee and used for the purposes of the grant project without charge to the grantee. An example of such would be the contribution of office space to a grantee by another entity.

2.13 Interagency Advisory Committee (IAC)

The Interagency Advisory Committee (IAC) refers to anyone of the committees that evaluates and scores applications for FTA funding. The committee consists of representatives of State agencies, including but not limited to the Department of Local Affairs, the Department of Transportation, the Department of Human Services (Aging and Adult Services office, Developmental Disabilities Services office), and the Public Utilities Commission.

2.14 Intercity Bus Service (ICB)

Intercity bus service means regularly scheduled bus service for the general public connecting two or more urban areas not in close proximity to each other over a fixed route with limited stops, making meaningful connections with scheduled intercity bus service to more distant points and providing the capacity for transporting baggage carried by passengers.

2.15 Metropolitan Planning Organization (MPO)

An MPO is an agency designated by law with the lead responsibility for developing transportation plans and programs within an urbanized area.

2.16 Mobility Management

Mobility Management consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers. It includes personnel and technology activities, and is considered by FTA as a capital project.

2.17 Multi-year application

Multi-year application refers to a grant application, which covers a two-year period.

2.18 Non-Urbanized Area

A non-urbanized area (herein also referred to as a rural area) is any area that is not included in an urbanized area. An urbanized area is a contiguous metropolitan area with a population of 50,000 or more and meeting the urban density requirements of the Census Bureau.

2.19 Operating Expenses

Operating expenses are those directly connected with the provision of services, including but not limited to: driver and dispatcher salaries and fringes, maintenance costs, fuel, insurance, and licenses.

2.20 Operating Deficit

The difference between operating expenses and operating revenues.

2.21 Operating Revenues

Revenues derived through the operation of a public transportation program, which includes fares, passes, rider donations, concessions, and advertising placed inside or outside a service vehicle.

2.22 Passenger Trips Per Capita

The total number of boardings divided by the service area population.

2.23 Passenger Trips Per Service Hour

This is the ratio of passenger trips to revenue hours of service.

2.24 Persons with Disabilities

Persons having a physical or mental impairment, which substantially limits one or more of the major life activities; a record of such impairment; or is regarded as having such impairment. For transportation purposes, a disabled individual is one who is unable to board, disembark or navigate the transportation system without assistance.

2.25 Program of Projects (POP)

The Program of Projects is a list of projects the State intends to fund with Sections 5310, 5311, 5316, and 5317 assistance. The POP will consist of a brief project description and the proposed funding.

2.26 Project

Project refers to the services to be provided by a grantee using the federal funds as described in a contract's Scope of Work.

2.27 Public Transportation

Public transportation includes any transportation provided by bus, rail, certain shared-ride or user-side subsidy taxi programs, or other conveyance, either publicly or privately owned, which provides service to the general public on a regular and continuing basis. Public transportation does not include school bus, charter or sightseeing service, or any service to individuals or groups, which excludes use by the general public.

2.28 Regional Transportation Plan (RTP)

Regional Transportation Plan (RTP) means a technically based, twenty-year plan designed to meet the future mobility needs for a Transportation Planning Region (TPR), including but not limited to, anticipated funding, priorities, and implementation plans pursuant to, but not limited to, 43-1-1103(1) and (2) C.R.S. 1991, as further described in 43-1-1103(6) C.R.S. 1991. (Exhibit 5)

2.29 Rural Transit Assistance Program (RTAP)

RTAP refers to the Rural Transit Assistance Program, a sub-component of Section 5311, which provides funding for training and technical assistance for rural transit operators.

2.30 Service Area Population

Service Area Population herein means the total non-urbanized population in the geographic areas where the Project is actually provided and is herein limited to the population of incorporated areas and Census Designated Places. In limited instances the Department allows the population of unincorporated areas to be counted in the Service Area Population, based on justification and demonstration on behalf of the grantee and as agreed upon by CDOT.

2.31 State Administration

Expenses incurred by the State to administer the FTA grant in carrying out its responsibilities.

2.32 Statewide Transportation Plan (STP)

Statewide Transportation Plan (STP) means the twenty-year, comprehensive, intermodal state transportation plan adopted by the Colorado Transportation Commission (CTC) pursuant to the provisions of 43-1-1103(5), C.R.S. 1991, as further described in 43-1-1102(8) C.R.S. (See Exhibit 6)

2.33 Statewide Transportation Improvement Program (STIP)

The Statewide Transportation Plan is implemented by programming priority projects into the short-term (six-year document) called the Statewide Transportation Improvement Plan (STIP).

2.34 Subcontractor

A subcontractor refers to any organization, which subcontracts with a Grantee to perform project activities under a grant.

2.35 Transportation Improvement Program (TIP)

Transportation Improvement Program means a staged, multi-year program of transportation improvements, including annual or biennial elements.

2.36 Transportation Planning Region (TPR)

Transportation Planning Region (TPR) means a geographically contiguous area of the State, as defined by Section IV. – A. of the Rules and Regulations for the Statewide Transportation Planning Process and Transportation Planning Regions, and meeting some or all of the criteria for transportation commonality, and in which a regional transportation plan required to be developed pursuant to the provisions of 43-1-1102 and 1103 C.R.S. 1991.

2.37 Vehicle Rehabilitation

Vehicle rehabilitation refers to a major mechanical overhaul, which would include all or many of the following replacement components: new engine, transmission, drive shaft, axle, differential, brakes, wheel bearing, fuel system, suspension system, steering system, electrical system, coolant system, exhaust system, and heating/air conditioning of a vehicle, which may include but not be limited to cosmetic body or interior work.

PART 3.0

ROLES AND RESPONSIBILITIES

3.1 Local Responsibilities

An applicant is responsible for meeting the application requirements set forth in the application package. A grantee is responsible for meeting grant requirements; contracting with the State; subcontracting with third parties, if appropriate; overseeing project operations; assuring adequate record keeping; submitting reports on a timely basis; and, taking steps to comply with 49 CFR part 18, OMB circular A-133 and all certifications and assurances submitted with the application package and contained within the contract with the State.

3.2 Coordination

Staff in the Department and its managing division, the Division of Transportation Development, routinely communicate and cooperate with other state agencies, including the Colorado Coordinating Council for Access and Mobility and United We Ride participants, whose clientele have transportation needs. Participating agencies include the Colorado Departments of Employment, Education, Local Affairs, Human Services, and Health Care Policy and Financing. Coordination efforts extend to federal agencies (including Health and Human Services, HUD and the Veterans Administration), to Colorado's transit providers, and to agencies that serve populations of interest, including welfare recipients, low-income people, and the elderly and/or disabled.

Coordination with agencies at the state and federal level is under the auspices of the Federal Interagency Transportation Coordinating Council on Access and Mobility (CCAM) and the United We Ride model. Coordination activities are oriented largely to statewide interests, policy development, and communication. The provision of human services in Colorado is conducted primarily at the local level. Human service-transportation coordination efforts must occur at the county level or below and must be orchestrated and managed by interested local individuals, agencies, and organizations.

Department staff have met with human service-transportation providers throughout the state to encourage and/or establish local coordinating entities, committees, authorities, etc., to build new or expand exiting communication links. Department staff will support local coordination efforts by providing technical assistance, educational or instructional references, workshops, or other training, as local coordinating bodies may request.

3.3 State Responsibilities

Pursuant to CRS 43-1-701, the Department of Transportation and the executive director thereof have been designated as the agency responsible for administering the Sections 5310, 5311, 5316 and 5317 programs. In so doing, the Department is responsible for ensuring the fair and equitable distribution of Federal funds within the State; coordinating the implementation of the program with similar programs administered by other agencies; announcing the program and the availability of funds, particularly to minority organizations and Disadvantaged Business Enterprises (DBEs); developing an application package; providing management and technical assistance to applicants and grantees; conducting a competitive selection process; developing project selection criteria; determining applicant eligibility; evaluating applications; selecting projects for funding; ensuring that projects

provide for the maximum feasible coordination of transportation services assisted under JARC and New Freedom with other transportation services assisted by other federal, non-DOT sources; transferring funds between other FTA programs if and when appropriate; preparing and submitting the annual program of projects to the FTA for approval; providing technical, management and regulatory assistance to grantees; providing copies of applicable federal regulations and circulars; and administering and monitoring contracts.

3.4 Federal Responsibilities

The FTA is responsible for approval of the Program of Projects and for formal State project authorization and monitoring.

3.5 Statewide Long Range Planning Process

The rules and procedures for the statewide long range transportation planning process, codified in 43-1-106, C.R.S. 1991, have been included in this SMP in Exhibit 7. The purpose of the statewide long range transportation planning process is to develop, update and amend a twenty-year, intermodal, comprehensive statewide transportation plan, in cooperation with local governments, MPOs, Regional Planning Commissions, Indian Tribes, federal and state agencies, the private sector, and the general public.

The rules and procedures specify the division of the state in geographically contiguous areas of the state with similar transportation needs into Transportation Planning Regions (TPRs). There are fifteen (15) TPRs in Colorado. Five (5) of these TPRs are represented by the MPOs; the other ten (10) represent rural or non-MPO designated areas. Regional Planning Commissions (RPC) were formed through intergovernmental agreements with the Department for each of the non-MPO represented TPRs, for the purpose of transportation planning in the region. Each TPR is responsible for the development of a Regional Transportation Plan (RTP) and ensuring opportunity for public participation in the transportation planning process and complying with the applicable provisions of Title 23 CFR Part 450. As a minimum, each RTP must include a preferred plan that meets the transportation system and service requirements over a twenty-year planning period to meet the expected demand and anticipated capital and operating costs of the system; a fiscally constrained twenty-year intermodal transportation plan based on reasonably expected revenues to be available over the twenty year plan; an analysis of the planning factors upon which the fiscally constrained plan are based; an assessment of the social, energy, economic and environmental impacts of the fiscally constrained plan; identification of the results of Major Investment Studies (MIS) or Corridor Investment Studies (CIS); prioritization of projects; a funding plan identifying resources for the fiscally constrained plan; documentation of the public notification and participation process; and a resolution of adoption for the TPR.

The Regional Transportation Plans submitted by the Transportation Planning Regions shall form the basis for developing the Statewide Transportation Plan. The Statewide Transportation Plan will cover a twenty year planning period and integrate and consolidate the RTPs and Department's system planning into a fiscally constrained twenty-year multimodal transportation plan for Colorado, and will contain the same content as the RTPs.

PART 4.0

FUNDING PROCEDURES

4.1 Method for Distribution of Funds

The annual federal apportionment to the State for 5310, 5311, 5316, and 5317 is based on non-urbanized area population, as determined by the Bureau of the Census. The Department divides program funds into five categories: State Administration, Capital Equipment, Intercity Bus Service, Service Area Population and Merit.

1. The Department will first deduct the amount it determines is needed for State Administration, which will be used for contract administration and monitoring, overall management, and technical assistance to grantees, potential applicants and others. Technical assistance includes but is not limited to assistance in preparing applications; planning assistance; regulatory interpretation; and financial and management assistance. The maximum amount that the Department may allocate for state administration is 10% of the total Sections 5310, 5316 and 5317 funds and up to 15% of the total Section 5311 funds.
2. The Department will next allocate an amount (if any) for Capital Equipment Expenses. This amount will not be a designated percentage or predetermined amount. Instead, the Department will decide how much funding to allocate for Capital Equipment Expenses based upon the relative needs in the other four categories; the need for the individual capital equipment items being requested; and, the availability and appropriateness of utilizing Section 5310 to fund certain requests rather than Section 5311. The Department will evaluate the merit of each specific capital request; it will not make a Capital Equipment award to an applicant simply because it received a high score in the evaluation criteria. The Department presumes Section 5311 capital equipment awards will be limited and expects applicants to seek other funding sources first.
3. The Department will then deduct an amount for Intercity Bus Service. The Federal Transit Act requires the Department to set aside 15% of its Section 5311 allocation for Intercity Bus Service. The Department will set aside this amount OR a lesser amount if it submits to the FTA a full or partial certification, signed by the Governor, seeking a waiver to the required set-aside. The Department will review and evaluate any applications for Intercity Bus Service funding in a similar manner as other Section 5311 funding requests, but with special consideration of ICB needs, whether the request is for capital, operating or administrative assistance. If the amount of ICB funding requested or awarded is less than the required set-aside, the Governor's waiver will be requested.
4. The Department will allocate the remaining funds to Service Area Population, Merit awards, and Service Performance awards. These are funds that shall be awarded for operating and administrative expenses. The Department shall allocate 20% of the remaining funds to Service Area Population, 20% to Service Performance Awards, and 60% to Merit awards.
5. Service Area Population awards are granted based on each applicant's prorated share of the total service area population of all applicants, which received a passing score and which requested operating and/or administrative funds. This award addresses the need to allocate

funds on a fair and equitable basis across the state, as well as the Department's desire to establish a minimum base level of service for all applicants. In determining the service area population for which it is entitled to funding, an applicant may include only the population within incorporated municipalities or Census Designated Places (CDPs). In limited instances the Department will allow the population of unincorporated areas to be counted in the Service Area Population, based on justification and demonstration on behalf of the grantee and as agreed upon by CDOT that these are areas with a concentration of population and that each claimed area is provided public transportation on a regular and continuing basis. The Department does not require, however, for this service to be provided a specific number of days per week, since there may be circumstances where service is not needed at a prescribed level due to long distances or low densities. However, services provided to claimed areas must be part of the Project's regular, advertised service.

- (a.) The Department has established this service area population limitation based on its observation that nearly all recipients serve only municipalities or areas with a certain concentration of population; few grantees can afford to provide service throughout an entire county or region, especially to persons living in isolated locations.
 - (b.) The Department requires an applicant to list the incorporated areas and CDPs in tabulating Service Area Population. If an applicant wishes to claim any unincorporated areas not included within a CDP, it must clearly demonstrate, to the satisfaction of the Department, the level of service to be provided, as well as documentation indicating the extent of population density, such as Census data or State of Colorado Demography population estimates or other data as approved by the Department.
 - (c.) In general, two applicants cannot claim the same population, unless satisfied and approved by the department.
6. Performance Awards are distributed by evaluating and comparing performance of similarly sized transit systems based on three selected performance measures: cost per passenger trip, passenger trips per service hour, and passenger trips per capita. The four categories used to compare systems are: winter resort systems, systems with large operating budgets, systems with medium operating budgets, and systems with small operating budgets. Points are assigned based on three groupings within each of the four categories. Systems with the highest performance receive three points, system medium in performance receive two points, and systems with the lowest performance receive one point. The total number of points awarded is then divided into the amount of funding allocated for Performance Award to determine a dollar value-per-point. The dollar value-per-point is then multiplied by the number of points awarded to each applicant to determine the amount of funding based on performance.
 7. Merit awards are funded based on the scores assigned by the Interagency Advisory Committee (IAC) to all applicants receiving a passing score based on the evaluation criteria described in Chapter 5. Merit awards are based upon the rank of each applicant's Merit score relative to the Merit scores of all eligible applicants and is based upon CDOT's assessment of the relative needs of each applicant. Usually Merit awards are granted to close the gap between the amount of administration and operating funds awarded to applicants as Service

Area Population and Performance awards and the amount of funds requested to fully fund the project or provide a level of funds consistent with the level of service. However, while top-scoring applicants might receive a larger percentage of their request than a low scoring applicant as part of a Merit Award, CDOT takes into consideration each applicant's specific financial need, past funding levels, justification for the requested level of funding, and history of compliance with state and federal regulations, when making Merit Awards.

The total amount of funding an applicant receives as Service Area Population, Performance, and Merit awards is distributed between administration and operating expenses in approximate proportion to the administration/operating split proposed in the application, if appropriate. In general, however, no more than 25% of the funds will be awarded for administrative expenses.

4.2 Matching Ratio Levels

CDOT's Rules specify the federal share for administration and capital expenses shall not exceed the maximum allowed by FTA Circular 9040.1F. The Department currently sets the maximum federal share at 80% and the minimum local share at 20%. The federal share for operating expenses shall not exceed 50% of the net operating deficit.

1. Administrative Expenses: are reimbursed at the maximum federal participation ratio of 80%. This is a significant policy change for the Department, which has historically set the maximum federal share at 70% and the minimum local share at 30% as a way of encouraging continued local financial commitment to the project. However, the Department has changed this practice based on input from current and past grantees.
2. Capital Equipment expenses: are reimbursed at a maximum federal participation of 80% and the minimum local share at 20%. FTA guidance allows the Department to offer a maximum federal participation level of 90% for equipment purchased to comply with the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA), although the increased federal participation is limited to the incremental cost of such equipment. The Department has chosen not to use this higher level because it believes it is not cost efficient to make adjustments in grants to allow for two different match ratios in light of the small amounts involved.
3. Operating Expenses: are reimbursed at the maximum federal participation of 50% of the operating deficit, herein defined is the total costs of operation minus any revenue generated by the operation of the system, including farebox revenue, advertising revenue generated from signage placed on the interior or exterior of the bus, rider donations and/or concessions.
4. The Department offers financial assistance to Section 5311 grantees that provide service in both urbanized and non-urbanized areas. However, that financial assistance will be limited as follows. The Department will restrict Section 5311 participation in a project that serves both the urbanized and non-urbanized areas based on a percentage of the total costs of such a project. Generally, the percentage of Section 5311 participation will be based on the percentage of total passenger trips which originate in non-urbanized areas of the project. In limited instances where this methodology is inappropriate, the Department may substitute a different methodology, such as a mileage based methodology, if mutually agreed upon by the grantee and the Department.

5. Match Provisions: To further promote human service transportation coordination, per FTA guidelines, the Department, along with cash matches, will allow Federal funds not derived from USDOT to be used for up to one-half of the local match for projects. Any application proposing to use non-USDOT Federal funding for match must provide specific documentation from the Federal source confirming that those funds may be used by the applicant to match the grant. The documentation would normally be a letter from the local or state agency that controls those funds.

FTA Circular 9070 .1F also allows in-kind contributions to be used for up to one-fourth the local match for the 5311, 5316, and 5317 programs. The Department will also allow in-kind contributions to be used as local match for eligible Mobility Management projects under the 5310 program, but will continue to require a cash match for capital equipment, as stated in the Rules. In-kind contributions must be aligned with the purpose of the project, meaning there must be a logical relationship between the match used and the project proposed.

PART 5.0

APPLICATION PROCESS FOR FUNDS

5.1 Eligible Applicants

1. Section 5310: Those organizations which are eligible to apply for and be a recipient and grantee of Section 5310 funds through the Department are limited to the following: private nonprofit agencies and public bodies certified by the Department as the coordinating agency for elderly and disabled transportation services within their service area, or as the only willing and able operator providing transportation to the elderly persons and persons with disabilities. Public bodies who wish to receive funds must have completed the certification process for the coordinating agency as outlined in the Section 5310 Rules before the application deadline. The Department prefers that public bodies seeking eligibility under section 5310 do so by means of the first method, being certified as the coordinating agency for elderly and disabled services; the Department will require that the Regional Planning Commission (RPC) first confirm this requested designation. If the public body seeks designation by means of the second method (being the only willing and able operator), it must contact private non-profits (PNP) in the service area to determine if public transportation service provided by state and local governmental authorities under Section 5310(1)(1) is unavailable, insufficient, or inappropriate making the PNP eligible.

The Department will notify the public body if it will be declared an eligible applicant within 10 days of receipt of the necessary forms. Private for profit operators and any other organizations not included above may subcontract with eligible applicants for Federal assistance, provided any such subcontract is approved by the Department and is consistent with the approved project.

2. Section 5311: Those organizations which are eligible to apply for and be a recipient of Section 5311 funds through the Department are limited to the following: state and local public entities, Indian tribes, and private nonprofit operators of public transportation services in non-urbanized areas. Private for profit operators are eligible for Section 5311(f) funds only, for the provision of Intercity Bus service. Other private for profit organizations are not eligible applicants but are encouraged to subcontract with eligible applicants for the provision of service under a Section 5311 grant, provided such subcontract is approved by the Department and consistent with the project.
3. Sections 5316 and 5317: Those organizations which are eligible to apply for and be a recipient of Sections 5316 and 5317 funds through the Department are limited to the following: private nonprofit organizations, State and local public entities, Indian tribes, and operators of public transportation services including private operators of public transportation services.

5.2 Eligible Services & Areas

The Department has no explicit policies on the provision of service to destinations outside the state though it advises grantees to ensure they have the appropriate authority and insurance coverage for such activity. The Department, however, does take into consideration whether other states provide

funding for intercity bus (ICB) service that transcends state boundaries. The Department encourages ICB providers to seek funding for interstate ICB service from all states being served by such service, and takes such information into consideration when making ICB funding decisions regarding interstate bus service.

5.3 Application Cycle

In addition to its traditional annual application process, the Department has established the option of using a multi-year application process as a means of reducing the burden of applying annually and of providing grantees with more ability to plan services based on longer-term funding awards.

When the Department uses an annual application, it lists proposed awards in its Program of Projects (POP) based on the amount of funding actually available for that year. When the Department uses a multi-year application, in year one of that application the Department will list proposed awards for that year, based on the amount of funding actually available for that year; these will be listed in the POP submitted to the FTA. Then the Department will list the projects it anticipates funding in any succeeding year(s) of that application, based on the amount of funding estimated by the Department to be available for those years. This second list shall not be a commitment to provide funds in those years, and will not be the list specifically submitted as the POP.

In each succeeding year(s) of a multi-year application, the Department will:

1. Require applicants for funding in those years to provide an update of certain information contained in their original application. The Department will determine whether each of the projects listed in year one are still eligible in any succeeding year(s).
2. Consider capital equipment requested for year one, but not funded in year one, concurrently with capital expenses for which funding was requested in a subsequent year(s). In the process of moving such capital requests forward, the Department will likewise bring forward an applicant's Merit score in each succeeding year. Separate capital equipment scores shall be assigned each year, given that vehicle age and mileage change over time.
3. Adjust the listed projects based on the current need, or on compliance with conditions established by the Department, or on the appropriation, budgeting and availability of funds thereof.
4. Develop a POP in each successive year that identifies the projects to be funded.

5.4 Application Deadline

An application deadline will be established by the Department each year and must be announced at least forty-five (45) days in advance of the deadline. No applications will be accepted in the "between" years of a multi-year application process, since to do so would be unfair to those who were scored based on their standing relative to others applying at the same time. For JARC and New Freedoms projects, after applications are submitted and returned to CDOT, Department staff review them to establish compliance with minimum threshold criteria.

5.5 Notice of Funding Availability

Prior to the first year of a multiple year application, the Department will notify all interested parties, including DBEs, of the availability of Sections 5310, 5311, 5316 and 5317 funds, the basic program requirements, the application deadline, and the process for requesting an application package. This

notice is sent at least forty-five (45) days in advance of the application deadline. Notice of funding availability is sent to all known public, private nonprofit and commercial transit providers; councils of government; MPOs; and others who have expressed an interest in transit or in receiving the notice. When the Department is using its multi-year application process, it will NOT mail a Notice of Availability during the “between” years.

5.6 Content

In 2005, the Department moved to using online applications for the FTA grant programs it administers. In response to comments from current and past grantees, and as part of a continual effort to improve the efficiency of the application process, the application was revised for the 2008/2009 grant cycle. The most significant change to the application was incorporating the Section 5316 and Section 5317 grant programs into the application process. The Department chose to use one application for four FTA programs under CDOT’s auspices (Sections 5310, 5311, 5316 and 5317) rather than doing separate applications. Applications for the Section 5304 program, at this time, are still separate and solicited annually rather than biennially. The integration and coordination of the four grant programs requires less time of applicants if they choose to request funds all four programs. The current application is included as Exhibit 8.

5.7 Selection Criteria

Selection criteria are divided into two parts: threshold criteria, which are minimum requirements all applicants must meet to be considered for funding, and; evaluation criteria, which are used to determine merit, ranking applicants who meet the threshold criteria and prioritizing funding requests.

5.8 Threshold Criteria

1. Applicants must be an eligible applicant for the grant program under which funds are requested, as described in Section 5.1 above.
2. Proposed project must be described in and consistent with the area’s locally adopted Regional Transportation Plan (RTP). All RTPs are adopted by their respective Regional Planning Commission (RPC) after extensive public involvement during plan development and a formal public hearing. The Department has deemed that as long as the project for which an applicant is submitting an application is described in and consistent with the locally adopted RTP, the application has met RPC certification requirements.
3. The Department may occasionally make an exception for new projects that have not yet been included in the RTPs. However, in this case CDOT may require applicants requesting the exception to meet other special requirements such as documenting that a request for inclusion has been submitted, having the project described in a recent study, or answering additional written questions relative to how the proposed services will be integrated with other transportation services in the region.
4. Applicants must demonstrate the fiscal and managerial capability necessary to manage the grant being requested.
5. Applicants must assure they will comply with all applicable Federal statutes and regulations. All application forms and assurances must be signed by the appropriate officer.
6. Applicants requesting capital equipment must demonstrate the ability to follow the manufactures’ minimum maintenance requirements, provide regularly scheduled and

unscheduled maintenance, and maintain records of all maintenance.

7. The applicant must demonstrate that the local match will be available.
8. Applicants must submit complete applications to the Department no later than the announced deadline. On time applications are defined as submitting all electronic documents by the deadline and postmarking all mailed documents by the deadline. Complete is defined as including all certifications and assurances, along with any other required attachments.
9. The applicant's project must be for eligible project services or equipment as defined in the application instructions.
10. The applicant must demonstrate participation in a locally-developed coordinated human service-transportation plan (as directed in detail under the relevant FTA circulars). The applicant's proposal must meet needs identified or otherwise further the coordination goals, objectives, or strategies as identified through the coordinated human service-transportation planning process.
11. Section 5310 projects must provide transit service to elderly persons and persons with disabilities.

Applicants not meeting the above criteria will not be considered for funding.

5.9 Sections 5310 and 5311 Evaluation Criteria – The Merit Score

After an application for funding has met the minimum requirements specified under the Threshold Criteria, the Interagency Advisory Committee (IAC) then evaluates the application on .

The Rules for the Sections 5310 and 5311 programs specify three criteria to score applicants for Sections 5310 and 5311 funding. The Merit scores derived from this scoring process are used to rank and prioritize requests for Sections 5310 and 5311 funding. The IAC determines the Merit scores for each applicant for each respective evaluation criteria (described below), with scores ranging from 0 to 3 at 0.5 intervals. The scores for financial justification, service justification, and coordination are then weighted and averaged to calculate a single final Total Merit Score. The evaluation criteria comprising the Merit Score are described and weighted as follows:

1. **Financial Justification** (30% of the Merit Score): An applicant's demonstrated need and justification for the level of funding requested. Factors considered as a part of this criterion include: the lack of funding sources available to the applicant; the good faith efforts to obtain funds for the project from non-FTA sources; the economic condition of the applicant's service area; the level and amount of local commitment to transit; the reasonableness of costs to operate and administer the project; the amount of available revenue, including contract and earmarked funds; and the portion of costs covered by local funds. When evaluating financial justification, the IAC will compare estimated project costs and revenues in light of a three year cost history. Inflation and service expansion will be considered.
2. **Service Justification** (30% of the Merit Score): An applicant's demonstrated need for the proposed project or justification for the service. Factors considered are lack of appropriate public transportation alternatives; transit dependency of the population, particularly the extent to which the proposed project serves elderly or disabled persons, persons without a car, or low income persons; extent to which the applicant provides service to other organizations; the numbers of riders and types of trips provided; the size of an applicant's

service area; and other relevant factors, including congestion mitigation and air quality improvement.

3. **Coordination** (40% of the Merit Score): The extent an applicant demonstrates it has coordinated with other organizations to promote the service and reduce service duplication, overlapping service areas, and conflicts. The coordination of services evaluation is separate from the threshold requirement for projects to be derived from a local human services transportation plan. Factors to be considered are: the extent which coordination reduces total miles traveled, operating expenses, number of vehicles used and lead time for passenger scheduling; the extent which the applicant works with community organizations (e.g., Chambers of Commerce, human service agencies) to promote the service and make it more efficient; the lack of duplication or overlap with transit services provided by others; and an applicant's good faith efforts to coordinate with private for profit operators.

Applicants will not be held to a single performance standard for coordination; coordination is related to individual circumstances. For example, the Department recognizes the limited number of social service agencies with which resort operators can coordinate; likewise, there is often a lack of commercial operators and human service agencies in some very rural areas with whom an applicant can coordinate.

The Department emphasizes that it is an applicant's responsibility to take positive steps to coordinate services in its community. The Department is sympathetic to those who would claim that they should not be punished if other organizations simply won't work cooperatively to coordinate services. However, in such situations the Department emphasizes that its evaluation of coordination is, to a large extent, an evaluation of an entire community's coordination success, not just that of the applicant.

In general, it is the Department's policy to assign lower scores and priority in the Service Justification and Coordination criterion to applicants that directly or indirectly limit or direct all or a significant portion of their service to a particular clientele (for example, elderly persons, developmentally disabled persons, residents or customers of a particular facility, etc.), unless that service is operated and funded separately from the project for which funding is sought.

5.10 Sections 5316 and 5317 Evaluation Criteria – The Merit Score

Reviewers of the JARC and New Freedoms applications will make a qualitative assessment of three evaluation criteria: the *need* for the project, the *strategy* for accomplishing the project, and the *collaborative* and *coordinative* efforts shown.

Using a score with a range of 0 ("not applicable" or "non-responsive") to 3 ("excellent"), IAC reviewers evaluate how successful the application responds to the key criteria of need, strategy and coordination/collaboration. The identification and discussion of "need" comprises 30 percent of the total score. The identification and discussion of "strategy" also comprises 30 percent of the total score. Coordination and collaboration provide the remaining 40 percent of the total scores.

An application's final score is the averaged scores assigned by each IAC member. Reviewers will rank each question, the ranks of all the questions will be added for a total, then divided by the number of questions for the resulting averaged score.

5.11 Passing Evaluation Score

Evaluation of service performance (cost per passenger-trip, passenger-trips per service hour, passenger-trips per capita) is conducted by the Department after applications have been received, following the procedures described in section 5.9.

Applicants receiving a score of 1.45 or *higher* from the IAC are eligible for consideration for Service Area Population, Performance and Merit awards. Applicants receiving a score of 1.44 or *lower* are **not** eligible for funding, including capital equipment funding. The Department has determined 1.45 is the passing score based upon mathematical deductions and a theoretical scoring process. Considering all possible scoring combinations and median and mean scores, the cutoff for worthwhile projects is 1.45.

The Department determines Service Area Population, Performance, and Merit awards using the process described earlier. The relative ranking of applicants by Merit score, however, does not mean the agency with the highest score receives the highest dollar amount. In making Merit awards, the Department considers the spread of scores, the total number of applicants, and the total funding available.

PART 6.0

SCORING METHODOLOGY

Application requests are evaluated and projects are funded based on the combined scores from the Merit Score, which includes evaluation of financial justification (30% of the Merit Score), service justification (30% of the Merit Score) and coordination of services (40% of the Merit Score); the Item Score; and the evaluation of service performance. The Merit Score determines 20% of an applicant's overall score. The Item Score determines 60% of an applicant's overall score, and service performance determines 20% of an applicant's overall score.

6.1 IAC Scores

The scores assigned by the IAC for each of the Evaluation Criterion are not intended to represent a precise calculation using narrowly defined measurements. Rather, when deciding a score, each IAC member will use personal and professional judgment in determining the degree applicant shows need, justification, or success in a certain area; that is, IAC members are not expected to "read between the lines" or seek out information not already presented to them. IAC members assign scores of 0, 0.5, 1.0, 1.5, 2.0, 2.5, or 3.0. A score of zero (0) indicates little or no evidence of need or justification for the project in regards to a particular criterion. A score of one (1) indicates some evidence of need or justification for funding but demonstrates lack of success in comparison to other applicants or room for improvement because of low performance. A score of two (2) indicates a moderate level of need or justification for funding in comparison to other applicants and moderate success or performance. A score of three (3) indicates a strongly demonstrated need for funding in comparison with other applicants and consistent history of high performance.

The scores assigned by the IAC are not intended to represent a precise quantitative measurement of applicants' level of success in a particular evaluation criterion. Rather, these scores are ordinal in nature and are used only to determine a relative ranking of applicants, in order to prioritize funding requests, and top Merit scores do not equate to full funding. Each applicant's final score is derived by averaging the scores assigned by each IAC member. After members assign scores, a meeting of the IAC is usually held and members are given the opportunity to discuss their scores, particularly when there is a significant variance between the scores assigned to a single applicant in the same evaluation criterion. IAC members may choose to change their individual scores based on these discussions.

JARC and New Freedom each have their own review committee. Although individual reviewers may vary from one grant cycle to another, the agencies will typically be the same or similar. In addition to one or two CDOT staff, the JARC and New Freedom IAC will have at least three non-CDOT reviewers.

Applicants who receive a score of 1.45 OR GREATER on the Evaluation Criteria are eligible for consideration for funding when items 6.2, Service Performance Measure Scores and 6.3, Capital Equipment Scores, are factored in. Applicants who receive a score of LESS THAN 1.44 in the Evaluation Criteria are NOT eligible for any type of funding. CDOT determined 1.45 was the passing score based upon several mathematical deductions and a theoretical scoring process. The staff considered all the possible scoring combinations and calculated the median and mean scores, which resulted in the cutoff point being 1.45. The staff assigned scores to several hypothetical

applicants. There was consensus that applicants with scores below 1.45 might have serious deficiencies and would not likely be appropriate candidates for funding.

6.2 Service Performance Measures Scores

As mentioned previously, the Department calculates performance measure scores by comparing the performance of similarly sized transit systems. The four categories used to compare systems are: winter resort systems, systems with large operating budgets, systems with medium operating budgets, and systems with small operating budgets. Points are assigned based on three groupings within each of the four categories. Systems with the highest performance receive three points, systems medium in performance receive two points, and systems with the lowest performance receive one point. Performance measures selected in calculating performance measure scores are:

1. **Cost per passenger-trip.** This is the total operating expense (including administration and maintenance) divided by the total annual number of passengers. This is a key indicator of the service efficiency and also reflects the market demand for the service.
2. **Passenger-trips per service hour.** This is the ratio of passenger trips to revenue hours of service. This is a better indicator of effectiveness of the service than passengers per revenue mile because the number of hours is a better indicator of the resource consumed than is the number of miles.
3. **Passenger-trips per capita.** The total number of boardings divided by the service area population. This reflects the average number of transit boardings per person. The number is larger in areas, which emphasize public transportation, and in areas where there is a greater transit dependent population. Resort areas in Colorado have a very high number because of the large visitor population base. Use of this measure requires a common definition of the population base: the US census. It is recommended that the population number be the same as that used by CDOT in calculating grants.
4. Performance measures specific to Section 5316.
 - a. The project must identify and measure the actual or estimated number of jobs that can be accessed because of the geographic or temporal coverage of JARC programs.
 - b. The project must identify and measure the actual or estimated number of rides (as measured by one-way trips) provided because of the JARC project.
5. Performance measures specific to Section 5317.
 - a. The project must identify and measure increases or enhancements related to geographic coverage, service quality and/or service times that impact the availability of transportation services for individuals with disabilities;
 - b. The project must identify and measure additions or changes to environmental infrastructure (for example, transportation facilities, sidewalks, and so forth), technology or vehicles that impact availability of transportation services; and
 - c. The project must identify and measure the actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities.

6.3 Scoring Capital Equipment – The Item Score

If Capital awards are made, individual capital requests are given an Item score, using the same 0-3 scale and intervals (0, 0.5, 1.0, 1.5, 2.0, 2.5, 3.0) as used in the Merit score. Item scores are assigned by Department staff and presented to the IAC for comments. Individual capital equipment requests are ranked using several factors, particularly the following: for vehicles, age, odometer reading, condition, target ridership and planned usage of the vehicle is considered. In general, the Department gives higher priority to rolling stock capital requests over non-rolling stock capital request and prioritizes replacement vehicles over expansion vehicles. For expansion vehicles, the reason for expansion, the size of the current fleet, the population to be served, and the extent to which the need for expansion is proven and justified are taken into consideration when calculating scores.

The final ranking of individual capital equipment requests is accomplished by combining the Item Score, the Merit Score, and the Performance Score (calculated by averaging the number of points awarded across all performance measures) into a Total Weighted Score, using the following weighting method: 20% Merit Score, 20% Performance Score, and 60% Item score.

The Department's policy is not to fund Capital Equipment items with a Total Weighted Score with a score of less than 1.45. As the available funds are depleted, applicants are offered the opportunity to overmatch if funds remain but do not amount to the full federal share of the capital item. The Department has a policy of not replacing or rehabilitating Body on Chassis vehicles that within the grant period would have less than 100,000 miles, nor will the department fund new vehicles for use as part-time or spare/backup vehicles.

6.4 Intercity Bus Transportation

The Department has developed specific guidelines for making available its intercity bus service (ICB) funds. The Department appoints an Intercity Bus Advisory Committee (ICBAC), responsible for assessing Colorado's ICB existing service and needs, for advising the Department on how to prioritize the use of the funds, to recommend guidelines for receiving and evaluating applications for ICB funds, and to hear comments from interested parties. Guidelines for ICB awards are presented at public meetings held across the state prior to Department adoption.

A key aspect of the Department's guidelines is a requirement that applications for ICB funding must make meaningful connections with long-haul ICB carriers. That is, short-haul services are more appropriately applied for under the regular Section 5311 program. It is the Department's position that longer-haul routes should be connected with the existing interstate carriers that exist in the state. This could be done more successfully by connecting closely with existing schedules in existing ICB depots.

Applicants for ICB funding must follow the Rules adopted for the "regular" programs, unless those Rules are amended to make certain exceptions for the ICB program. The ICB applications are reviewed and scored by the Department at the same time as other applications. The Department has made special accommodations in its application forms and instructions for ICB services in light of its unique nature. In particular, the evaluation factors were revised to include some items that better relate to ICB services.

In accordance with SAFETEA-LU requirements, the state consults with ICB providers and makes outreach efforts to potential ICB providers during the application process. In addition to a conference call to existing providers on August 20th 2007, the Department contracted with a consultant to look at the ICB needs from a statewide perspective. A copy of the final Intercity Bus Study is available for review.

As ICB providers tend to be private providers and are able to quickly drop service or add service, they, by their very nature, do not follow a two-year open grant process. In order to accommodate this fact, CDOT entertains applications for ICB service year round. The Department may also issue an intercity bus application outside of the regular schedule of other applications on an as needed basis. Further, the Department may have another state DOT join in its competitive application process when the Department is issuing an application for a multi-state route in order that CDOT and another state, or states, may coordinate the selection of one intercity bus provider for the route. Likewise, the Department may join the competitive application process of another state in selecting an intercity bus provider for a multi-state route.

When making intercity bus funding awards using 5311(f) funds, the Department may utilize the FTA Pilot Program of In-Kind Match for Intercity Bus services. Use of the FTA Pilot Program thus allows for the Department to fund intercity bus operations beyond a 50/50 federal/local match level and fund up to a 100% federal match of intercity bus operations deficit.

PART 7.0

PROJECT SELECTION AND GRANT SUBMITTAL

7.1 Coordination of 5310 Project Selection with MPOs

The Department will coordinate project selection with Metropolitan Planning Organizations (MPO) by allowing them to submit a prioritized list of Section 5310 capital equipment projects as well as comments related to the consistency of submitted projects with local transportation plans. MPOs will be encouraged to prioritize projects based on the evaluation criteria established herein by CDOT. The Department will share MPOs' priorities and comments with the IAC, but will not set aside a separate funding allocation for any MPO area. It is the Department's position that it will make all reasonable attempts to consider the general funding priority order of the MPO. The Department will separately prioritize all requests, but shall consider the priority rankings set by MPOs.

The Department believes it cannot strictly follow a MPOs scoring order because to adopt an MPO-assigned score would override the score of the IAC and not provide equal treatment to those applicants not from an area covered by an MPO.

MPOs may choose to submit a joint application on behalf of applicants within its area and serve as the grantee. Its overall proposal would then be evaluated just as all other applications.

7.2 Program of Projects Submittal to FTA

The IAC determines scores for applicants passing the threshold criteria. The Department's Transit Unit staff makes final recommendations of grant awards to the Director of the Department's Division of Transportation Development for approval. If approved, the staff then develops a grant application for submittal to the FTA regional office, including a Program of Projects that lists all grant awards.

All projects will be listed either in Category A or Category B, as follows:

1. Projects submitted under Category A shall be those that have met all the federal and state requirements and are ready for contract development with FTA approval.
2. Projects submitted under Category B shall be those that have not met all the federal and state requirements. In particular, this would include any projects which have not met all certification requirements, or which have been designated a "high risk" grantee or a grantee with a "high risk" subcontractor. The Department will notify any applicant whose project has been placed in Category B. If the applicant fulfills the requirements of the Department, the Department will provide written notification to FTA and the grantee that the project has been advanced to Category A.

7.3 Re-programming of Other FTA Funds

The Department annually contacts designated recipients in small-urbanized areas to determine if there are any unobligated Section 5307 funds available for transfer prior to lapsing. If such funds are available from small-urbanized areas, other small-urbanized areas are given the first opportunity to use the lapsing Section 5307 funds. If the small-urbanized areas cannot use the funds, the funds are transferred to the Section 5311 program. The Department is responsible for contacting the Governor's office and coordinating the transfer.

The Department also determines whether there are Section 5310, 5316 or 5317 funds from existing open grants which are unobligated or which have been deobligated from other projects. If so, the Department attempts to re-program such funds to appropriate projects from applicants whose projects were not fully funded from the year from which funds are derived.

Any transit projects funded under the Surface Transportation Program (STP) and eligible for transfer will be coordinated through the Department's Transit Unit. In such cases the Department will request the Federal Highway Administration to transfer the funds to FTA. An appropriate contract will be executed and administered in the same manner as funds awarded through the regular application process, if possible. If the funds are made available at a different time of the year and cannot be part of the annual application process, the Department will seek to amend the appropriate contract.

7.4 Civil Rights Compliance

The Department submits the names and addresses of all proposed grantees to the Equal Employment Opportunity Commission and the Civil Rights Commission. Those two groups are asked to disclose any complaints filed or actions taken against any of the organizations. All responses are made part of the grant file. In addition, all grantees are required to certify as to whether there are any complaints filed or actions taken against them. The Department will not execute a contract with a grantee until any outstanding issues are resolved to CDOT's satisfaction and the certification of civil rights is received. (Please see the contract template language in Exhibit 10 for an example).

7.5 Final Approval and Execution

The final grant application submitted to the FTA regional office is approved and executed by the Director of the Department's Division of Transportation Development. It is the Department's intent to submit its grant application to the FTA by the beginning of the federal fiscal year and to execute contracts with grantees by January 1st. The Department has chosen to make calendar year awards to grantees because most grantees operate on a calendar year basis.

7.6 Right of Appeal

Applicants and private sector operators retain the right to appeal the funding decisions of the Department, subject to the terms of the Colorado Administrative Procedures Act, Exhibit 9. The Department shall notify all applicants of its annual Program of Projects. If an application is denied, the grounds therefore shall be given to the applicant. The notice shall be deemed received by the applicant three days after the date of mailing of the notice. An applicant that is aggrieved by a Department determination under the Rules may request a hearing pursuant to the provisions of the State of Colorado Administrative Procedures Act. If a hearing is requested, it will be conducted in accordance with state statute. The request for a hearing must be made within 60 calendar days after an applicant is notified of the Department's decision.

PART 8.0

POLICIES AND PROCEDURES

8.1 Coordination

The following is evidence of the Department's commitment to seek greater coordination of transportation services and administration.

1. A Coordinating Council for Human Services Transportation was first formed in 1994 under an executive order of the Governor. Both state and federal agencies were represented on the Council, and CDOT was designated as lead agency for the effort. The Council was charged with studying federal, state and local barriers to coordination and making recommendations for eliminating or relieving those barriers. The Council developed and published a final report of its findings. A new Coordinating Council was formed in 2005 with the support of the Governors' office. That Council completed the United We Ride Framework for Action self-assessment and developed an Action Plan.
2. In October and November of 2006, CDOT Transit Unit staff met with transportation and human service providers through the state. At least one of these meetings was held in each TPR. These CDOT-sponsored meetings were called "human service transportation meetings" or "coordination meetings" and were intended to address or begin to address, local human service-transportation coordination needs in order to comply with the new FTA requirements and attempt to pre-qualify agencies at the local level.
3. CDOT uses other state agency personnel on its IAC to evaluate Sections 5310, 5311, 5316 and 5317 grant applications. This better assures that concerns and needs of different client groups are considered.
4. The Department gives greater weight (40%) to the Coordination factor in its evaluation scoring.
5. In the planning processes required by the Department, the need for coordination of services is stressed as a SAFETEA – LU requirement.
6. Regional Coordinated Human Services Transportation Plans were developed in 2008 as a means of bringing together various agencies.

8.2 Use of Section 5310 Equipment for Section 5311 Service

The Department allows the use of Section 5310 funded vehicles in Section 5311 service if certain requirements are met. Section 5311 service is intended to offer public transportation service to any person, not just elderly persons or persons with disabilities. However, the Department believes it would be wasteful to award vehicles funded by both Section 5310 and Section 5311 for use in the same community or service area. Therefore, the Department allows the use of Section 5310 vehicles for the general public if it is limited to incidental use by the general public.

Such "incidental use" occurs when a significant percentage of the trips are provided to elderly persons or persons with disabilities while a smaller number of trips are provided to non-elderly and, non-disabled persons. Under such circumstances the general public usage of the 5310 funded

vehicle is largely minor and therefore considered by the Department ancillary. In the case of a grantee providing both fixed route and demand responsive service, the determination of whether the general public usage of the vehicle is ancillary or not is made upon the ridership of a specific vehicle used to target an elderly and disabled population. This Department practice has encouraged coordinated service and this has resulted in a number of grantees receiving both Section 5310 and Section 5311 funds, thus avoiding duplicated services.

8.3 Private Sector Participation

The private sector is given a fair and timely opportunity to participate in the project in two primary ways. First, they are encouraged to take part in the planning process through the development of the Regional Transportation Plan by serving on the local Transportation Advisory Committee (TAC), or at least in being notified of and being encouraged to participate in Regional Transportation Plan meetings. Also, all grant applicants are encouraged to meet at least biennially with the private sector operators in their service area for the purpose of examining contracting opportunities. Each applicant's efforts are evaluated and included as one of a number of factors considered in the Coordination Evaluation Criterion. The Department will offer assistance to both grantees and private operators to ensure a "level playing field". The private sector participation process is more fully described in the Rules and the application package.

The Department encourages the private sector to be included on either the TAC, along with community leaders, consumers, minority organizations and persons, interested agencies and transit providers, or on the RTP Advisory Committee. The Department also encourages grantees to ensure that TACs and other advisory committees continue to meet on an ongoing basis even after adoption of the RTP in order to monitor its implementation and prepare any amendments to the document.

8.4 Planning Process

In order to be considered for funding, all applicants must propose a project that is described in and consistent with a locally adopted Regional Transportation Plan. The Department believes local areas are best equipped to decide who is an appropriate applicant and what type of service should be offered. In addition, the Department believes the most efficient use of public funds is through coordinated service, not competing, duplicative or overlapping projects. Service alternatives and planning decisions are outlined in the RTP, as are the selected providers and the preferred transportation alternatives. As part of the RTP process, a local Transportation Advisory Committee (TAC) is formed to review and make recommendations to the RPC. The Regional Transportation Plans also have an advisory committee formed for the same purposes. CDOT has phased out Transit Elements, and all transit projects are included directly in the RTPs.

8.5 Policy on Publicizing Service as Open to the General Public

All Section 5311, 5316 and 5317 recipients must have written material that clearly states the service is open to the general public, and normally includes a brochure available throughout the service area. Other materials used for publicity, such as news releases, should also mention the service's availability to the public. Agencies that receive both Section 5311 and Section 5310 funds and serve both urbanized and rural areas may explain limitations applicable to their Section 5310 and/or urbanized service areas.

The Department requires grantees to place an agency, trade or service name on vehicles and publicity materials that clearly indicate the service is available to the general public and not limited to a

particular client group. The Department strongly encourages grantees to prominently display their phone number on passenger vehicles; this allows people to access information about the system and make reservations. When appropriate, the Department may require a grantee to place the words "PUBLIC TRANSPORTATION" on its vehicle and/or brochures. For example, a Section 5311 grantee that operates a program for senior citizens may be required to develop a name for the transportation program that excludes words referring to senior citizens. The Department will check compliance with this policy during site-visits.

The Department does not permit grantees to limit service to a particular group or to make service available to the general public only on a "space available basis." However, the Department allows grantees to operate particular routes that are not open to the general public as long as the costs related to such routes are separated and excluded from Sections 5311, 5316 and 5317 reimbursements. Furthermore, in light of the fact that the grantees may be utilizing human services funding from other sources to finance some specific client-based passenger trips, the Department considers it reasonable to set aside seats to accommodate passengers whose trips are paid by those sources. The Department considers setting-aside seat reasonable if their number is roughly proportional to the overall funding of the service or route, and provided it does not significantly limit the number of seats available to the general public or results in trip denials on a frequent basis. This provision encourages greater service coordination by addressing the concerns of funding sources who might otherwise not agree to participate for fear their funds might subsidize other riders. Any grantee proposing to set seats aside for particular client trips must have that arrangement approved by the Department.

Grantees may not deny transportation based on trip purpose. The Department does not require grantees to track trips by purpose, but does require grantees to provide estimates based on rider surveys or other sources annually. This information helps determine whether a grantee is complying with the requirement to not restrict trip purpose. The Department recognizes, though, that grantees might encourage riders to adjust to adequately handle certain priority trips, including medical trips.

While grantees cannot limit trip purposes, the Department recognizes grantees providing demand responsive service can face financial hardship if required to respond to frequent requests from one individual or one facility. Furthermore, the Department considers that such requests may have the unintended consequence of unfairly competing with local taxi operators. Therefore, the Department considers it reasonable for grantees to take special steps to discourage such usage, including: a requirement for advanced reservations; charging fares or higher fares to persons who are not elderly or disabled; the exclusion of frequent usage which could clearly be defined as subscription or charter service; or, other steps approved by the Department.

PART 9.0

CONTRACT ADMINISTRATION

9.1 Contract Execution

The Department offers contracts to applicants that have completed all requirements and are listed in Category A of the Program of Projects. Exhibit 10 is a copy of the contract for Section 5311 funds and contracts for 5310, 5316, and 5317 are available for review as well. The Department's contracts consist of three parts: (1) template contract language which contains recitals, provisions, state- and federally-required clauses and Special Provisions; (2) the Scope of Work and Conditions, which contains performance standards, project descriptions and any special conditions such as High Risk Designation; and, (3) the Audit Requirements, which contain guidance for auditors to follow in examining the records of the grantee per the terms of the grant contract. In addition, the contract includes a security agreement. Throughout the State Management Plan the reader is referred to the template contract language in Exhibit 10 for examples of various forms and certifications.

9.2 Fiscal and Accounting Procedures

A sub-recipient of Sections 5310, 5311, 5316 or 5317 funds shall not be required to adopt any particular accounting method. However, all grantees are required have a fiscal management system in place that meets the requirements of 49 CFR 18 Part 20. Additionally, all grantees are required to maintain accounting systems that are translatable to the accrual method of accounting and the Uniform System of Accounts (USOA), as required by 49 U.S.C. 5335(b) National Transit Database reporting requirements.

9.3 State Financial Management System

CDOT will account for federal grant funds using its own financial management systems authorized by State law and procedure. Fiscal controls and accounting procedures used by the State and its grant recipients permit the preparation of financial management reports required by both the Common Rule and the grant authorization statute, and permit the tracing of funds to a level of expenditure which demonstrate whether funds are being spent in compliance with applicable statutes and other grant requirements.

9.4 Performance Reports and Requests for Reimbursement

The Department requires grantees to complete and submit two types of reports: reimbursement requests and an annual certification and performance report. Trips brokered by a transit agency are to be included in the reporting, particularly when the income associated with those trips is also reported.

1. The monthly reimbursement request, Exhibit 11, combines performance reports and requests for financial reimbursement. Monthly invoices and operating reports identify actual expenditures by general line items. These invoices and reports must be certified that the funds were expended in accordance with the terms and conditions set forth in the contract between the Grantee and the Department. The grantee usually receives reimbursement within 30 days of submission of a complete and valid form.

2. The annual certification of equipment use, Exhibit 12, is mailed to grantees in early spring. Each grantee must return the certification attesting to the proper use of equipment retaining a federal interest.
3. The Department also requires additional tracking of certain performance measures for Sections 5316 and 5317.
 - a. Performance Measures for Section 5316. There are two FTA-directed performance measures for JARC:
 - i. The project must identify and measure the actual or estimated number of jobs that can be accessed because of geographic or temporal coverage of JARC programs.
 - ii. The project must identify and measure the actual or estimated number of rides (as measured by one-way trips) provided because of the JARC project.
 - b. Performance Measures for Section 5317. There are three FTA-directed performance measures for the New Freedom project.
 - i. The project must identify and measure increases or enhancements related to geographic coverage, service quality, and/or service times that impact the availability of transportation services for individuals with disabilities.
 - ii. The project must identify and measure additions or changes to environmental infrastructure (for example, transportation facilities, sidewalks, and so forth), technology or vehicles that impact availability of transportation services; and
 - iii. The project must identify and measure the actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities.
4. The Department asks grantees to track accessibility of their service in order to demonstrate compliance with the ADA. CDOT asks all grantees to report trips according to the following categories:
 - a. Disabled >60: trips for persons 60 and over who cannot board, disembark or navigate the grantee's system without assistance.
 - b. Non-disabled >60: trips for persons 60 years of age and over who can board, disembark or navigate the grantee's system without assistance.
 - c. Non-elderly/Non-Disabled <60: trips for persons under the age of 60 who can board, disembark or navigate the grantee's system without assistance
 - d. Non-elderly/Disabled <60: trips for persons under the age of 60 who cannot board, disembark or navigate the grantee's system without assistance.
 - e. General public trips for all persons who do not fit in the four previous categories.
 - f. In addition, the Department requests that grantees report the number of trip denials.

The Department allows the data to be collected on an actual trip basis or extrapolated from ridership surveys.

9.5 Penalties for Noncompliance with Performance Standards

In most contracts, the Department specifies performance standards for a grantee's entire service. Because the Department is making a grant and not purchasing specific trips, the Department believes grantees in most cases should not have to distinguish which trips or part of its service is funded by the grant. Instead, the Department measures the public transportation service in its entirety to better assess its level of participation relative to that of other funding sources. In a few cases the Department makes exception to this, and specifically excludes the reporting of certain trips and segments of service. The majority of these exceptions involve ADA paratransit trips and service provided via contractual agreement with a Section 5307 urbanized provider. The costs associated with these services are reported to NTD and FTA through the 5307 designated recipient; therefore, the Department specifically excludes their reporting to the Sections 5310, 5311, 5316, and 5317 grants.

The Department's contracts establish minimum performance standards that include the maximum cost per passenger trip, cost per vehicle hour, and cost per vehicle mile. These standards are derived from operating statistics which grantees include in the application package. The Department reserves the right to increase the performance standard expectations if it deems a grantee has underestimated its performance (too minimal a level compared to past performance or relative to its revenue base). Likewise, the Department gives grantees the right to negotiate lower performance standards if they are awarded less funding than requested and can demonstrate that service levels and performance standards submitted at the time of application were contingent on the request being fully funded.

Each grantee reports basic operating data (total operating and administrative expenses, passenger one-way trips, vehicle service miles and vehicle service hours) on the reimbursement request form, either monthly or quarterly. These data are entered monthly into a spreadsheet and averaged on an annualized basis. If a grantee falls below its contractual performance standards, the Department informs the grantee of such in writing and requests a written explanation within 30 days. The grantees' response must include the cause(s) of the failure and a written plan for returning to compliance. The Department will respond to the grantee's plan within 30 days. If the State approves the plan, or if the failure to meet the performance standards is due to a brief aberration in service levels or costs beyond the grantee's control, the Department will approve the plan and take no further immediate action, or it may acknowledge the need to reduce the standards.

If the Department does not approve a grantee's plan, remedial measures will be undertaken by the Department on a case-by-case basis. Those measures may include a reduction of the grant award (particularly if the grantee demonstrated negligence), a temporary suspension of reimbursements, or other appropriate actions. The Department believes strong remedial actions are usually not necessary since continued failure to comply with performance standards will adversely affect a grantee's application in the next funding cycle. The Department's objective is for grantees to be within 10% of the performance standards specified in the contract at the end of the year. The general practice has been to provide grantees with a spreadsheet that compares their contract with the annual report performance measures annually. The spreadsheet also compares their performance measures over the last several years.

9.6 Rural Transit Assistance Program (RTAP)

Since 1989, the Department has contracted with the state's transit trade association, the Colorado Association of Transit Agencies (CASTA), to provide its RTAP project activities, with the concurrence and support of the RTAP Advisory Committee. The Department appoints an independent RTAP Advisory Committee to determine priorities for the RTAP project and to review its progress. The committee consists of five members representing different geographic areas of the state. The committee members serve two year staggered terms and are appointed through an open nomination process. Tenure is limited, so the Department is assured of new, vital input.

CASTA has proven to be uniquely qualified to provide the necessary services since, as a state association, it represents transit operators across the state, has full time staff available to carry out the project, and is co-sponsor (with the Department) of the annual fall transit conference. CASTA, through input from its members, understands the diverse training and technical assistance needs of Colorado's transit agencies and has gained the confidence of operators through its timely provision of information and technical assistance on current transit issues. At the same time, since CASTA is also a membership organization and registered lobbyist, the Department contractually requires CASTA to offer RTAP services to *all* operators, not just its own membership, and for CASTA to have adequate membership dues and other revenues to pay for its lobbying expenses or other expenses not related to RTAP.

Each year, the RTAP Advisory Committee establishes a list of its prioritized activities. Based on this list, the Department then negotiates a contract with CASTA that outlines the activities to be carried out that year. As a supplement to the contract, the Department and CASTA negotiate a work program detailing how CASTA will specifically carry out the project and budget the funds. Expenses are reimbursed on a monthly basis with financial and program justification accompanying the reimbursement request.

9.7 Reprogramming of Funds

The Department periodically determines whether there are funds from existing open grants that have been deobligated or not claimed from other awarded projects. If so, the Department will reprogram funds by awarding them in the next grant cycle. It will be the Department's policy to honor its evaluation and selection process while also balancing that against the need to close grants promptly and respond to special needs and circumstances.

9.8 National Transit Database Reporting

The Department requires as a condition of grant funding the tracking and reporting of data required by the National Transit Database and 49 CFR Part 650. Annual NTD reporting will take the place of requiring grantees to submit an annual report, which has been the Department's policy in the past. With the passage of SAFETEA-LU, however, the Department's annual report duplicates much of the data required for completing the NTD Rural Reporting Form (RU-20).

The Department will forward the RU-20 form to all current grantees to complete and send back to the Department. Pursuant to Federal guidelines, it is the Department's responsibility to ensure all subrecipients of funds report timely and accurate data and to re-key this data into the NTD. The Department has made NTD reporting a duty of the grant program manager for the Sections 5310, 5311, 5316 and 5317 programs. Any changes made in the final rule on NTD reporting will be incorporated in the Department's future NTD reporting efforts.

9.9 Other provisions

The Department includes a 5333(b) Labor Protection Warranty certification, Exhibit 13, for grantees as part of its application to the FTA. All grantees and sub recipients are required to sign and submit this certification.

Applicants must execute assurances to certify they will comply with all other Federal requirements. Grantees certify, through the execution of the contract, that they will comply with the National Environmental Policy Act (NEPA), Buy America provisions, rules prohibiting the provision of exclusive school transportation, pre-award and post-delivery review of capital equipment, and FTA's Drug & Alcohol testing.

To help ensure that grantees are in compliance with program financial requirements, CDOT in the fall of 2007 required that grantees submit full back-up documentation prior to reimbursement. This was an interim strategy until such time that a risk-based assessment of grantees could be conducted by CDOT. By the fall of 2008, CDOT's internal audit division had conducted approximately one-half dozen mini audits to determine if an agency had sufficient internal fiscal controls to satisfy CDOT's concerns of fiscal compliance. The result of these mini audits, was to place grantees into fiscal tiers (one through three: with three requiring minimum documentation and one requiring the most) prior to receiving reimbursement.

As of April 2009, CDOT is in the process of developing a self assessment tool to assist grantees to move from to a less restrictive fiscal tier. The self assessment tool, in conjunction with submittal of an A-133 audit, will assist CDOT with determining whether a grantee's tier is appropriate and whether the grantee can be moved into a less restrictive tier. Please see attachment XX for a sample letter of a tier I, II, and III agency as well as a letter describing the tiering process from CDOT's Chief Financial Officer.

PART 10.0

CONTRACTUAL REQUIREMENTS, CERTIFICATIONS AND MONITORING

10.1 Site-visits for Compliance Monitoring

The Department conducts an on-site visit with half of the Sections 5310, 5311, 5316 and 5317 grantees every year, thus ensuring that every grantee receives at least one on-site visit during each two-year grant cycle.

During an on-site visit, the Department conducts a comprehensive review of operational policy and practices to determine:

1. Conformity to project budget;
2. Conformity to service description as described in the RTP;
3. Conformity with contract's Scope of Work;
4. Overall management of project operations; and,
5. Conformity to State and Federal regulations, particularly those relating to Civil Rights, DBE and ADA and Drug and Alcohol.

The procedure for conducting on-site visits is the following:

1. The Transit Unit notifies grantees of their selection for an on-site visitation
2. The selected grantees are asked to fill out a “pre-site visit questionnaire” (attached as Exhibit 14). This questionnaire is designed to give the Department an idea of how the grantee functions and what assistance might be needed. This form is completed online by the grantee prior to the visit. Staff review the grantee’s responses prior to the visit and determine which questions might need follow up on-site;
3. A list of supplemental questions is created by Department staff to determine compliance with certain laws and regulations (e.g., Civil Rights, DBE and ADA, etc.). These questions are asked during the site visit;
4. The Department sends the grantee a vehicle inventory and conducts an inspection of Sections 5310, 5311, 5316 and 5317 funded vehicles with a federal interest;
5. The Department and/or its contractor conducts the site visit. Follow up of compliance issues raised from the last site- visit is also discussed; and
6. The Department conducts a short review of financial practices and records.

The Department normally conducts site visits of each grantee every two years. The Department, at its discretion, may conduct a site-visit more frequently or with short notice under the following circumstances:

1. When a grantee is “new” (having received FTA funds for two years or less);

2. When a grantee has been found noncompliant during prior years, and it is the opinion of the Department that those grantees should be visited to ensure follow up action;
3. When a grantee has submitted reimbursement requests more than three months beyond their due date; or,
4. When a grantee is classified as a High Risk.

The Department maintains a master site-visit log of all site-visits (attached as Exhibit 15,) that records the status of all on-site visits for Section 5311, Section 5310, Section 5316 and Section 5317 grantees. The Department's site-visit form combines questions for all Section grantees into one form. Grantees receiving funds from all programs are asked all questions in one site visit.

Grantees are informed in writing of the Department's findings. A copy of the site visit report is sent to the highest elected official, or board chairman in the case of a non-profit organization. Grantees are informed of corrective actions needed to bring their agency into compliance in this report. Grantees are required to submit responses to findings and recommendations in writing.

10.2 High Risk Determinations

The Department may determine an applicant, grantee or subcontractor to be "High Risk" if it determines or has adequate reason to believe such organization has experienced or may experience difficulty in carrying out the responsibilities and compliance associated with management of a grant. The purpose of a High Risk designation is to notify an organization of the need to address deficiencies and to indicate the Department's willingness to assist in doing so. A High Risk designation does not disqualify an organization from financial assistance, but continued status as High Risk, or failure to make progress away from such status, may result in loss of or ineligibility for financial assistance, provided adequate written notification is provided by the Department.

1. A grantee (or applicant or subcontractor) is considered "High Risk" if CDOT determines any of the following conditions apply:
 - a. There is a history of unsatisfactory performance;
 - b. There is evidence of financial instability;
 - c. The organization has a management system that does not comply with the standards of the Common Rule; or,
 - d. The organization is otherwise not responsible in carrying out its responsibilities.
2. The Department may choose to contract with an organization that is considered "High Risk," but in so doing the Department may attach to the contract special conditions and restrictions corresponding to the "High Risk" status. "High Risk" recipients are entitled to be notified as soon as possible about their "High Risk" status and special conditions. If a contract is to be offered to High Risk grantees made, the Department will explain the following in writing:
 - a. The nature of any special conditions and restrictions;
 - b. The reasons for imposing the special conditions and restrictions;
 - c. Corrective actions that can be taken to remove the special conditions and restrictions;
 - d. The time allowed for corrective action; and,

- e. How reconsideration may be requested by the organization.
- 3. Examples of the special conditions and restrictions may include any of the following:
 - a. Phased performance requirements to assure activity completion;
 - b. Additional or more detailed financial reports;
 - c. Additional project monitoring;
 - d. Requiring the organization to obtain technical or management help; and,
 - e. Establishing added prior approvals.

10.3 Civil Rights

The Department takes the following steps to certify the continuing validity of the one time submission regarding Civil Rights compliance.

1. The Department submits the names and addresses of all proposed grantees to the Equal Employment Opportunity Commission and the Civil Rights Commission. Those two groups are asked to disclose any complaints filed or actions taken against any of the grantees. If responses from either of the organizations indicate complaints against a grantee, the Department will contact the grantee and monitor the status of such complaints until they are resolved.
2. The Department requires a nondiscrimination assurance and submits it to FTA as part of the annual FTA Assistance Programs Certifications and Assurances. An assurance regarding Civil Rights compliance is one of the standard assurances that must be executed by each applicant and by each grantee in its contract. A sample of the assurance is contained in the template contract language in Exhibit 10. The Department maintains for their recipients the following information:
 - i. List of lawsuits or complaints
 - ii. Summary of Civil Rights compliance review activities, and
 - iii. Assessment of the effects of a project on minority communities (for construction projects not covered by categorical exclusion).
3. Questions regarding Civil Rights compliance are contained within the on-site-visit questionnaire used at the site visits performed by the Department (Exhibit 16).
4. In order to reach out to minority organizations and inform them of the opportunity to participate in the programs, the Department will mail annual notices of the availability of funding to all known transit operators, including Indian tribes and minority organizations and offer application assistance to any Indian tribes and minority organizations, if requested.
5. The Department better assures that it does not discriminate in the evaluation and selection of projects by having the Interagency Advisory Committee (IAC) members assist in the evaluation and selection of projects to be funded.
6. The Department notifies all known transit operators in Colorado of the availability of FTA funds and assists them in applying for assistance.

10.4 Equal Employment Opportunity (EEO)

The department ensures that its grantees comply with these requirements of EEO:

1. To not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or handicap;
2. To take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to race, color, creed, national origin, sex, age, or handicap, and
3. To post in conspicuous places, and make available to employees and applicants for employment, notices setting forth an EEO policy.

To ensure grantee compliance with EEO requirements, the Department shall include such requirements in its contracts with grantees and shall monitor compliance during site visits. During the site visits the Department shall, at a minimum, ensure that grantees have an EEO policy statement placed prominently in employment applications and on a poster located where interested parties complete job applications.

The Department will obtain EEO programs from grantees that employ 50 or more transit-related employees and receive \$1 million or more in capital or operating assistance or in excess of \$250,000 in planning assistance in the previous federal fiscal year.

CDOT does not operate mass transportation services, and therefore submits the EEO programs to FHWA, which has the lead responsibility for reviewing and approving them. FTA reviews these programs to ensure that the State is providing EEO to the transit related workforce.

10.5 Disadvantaged Business Enterprises (DBE)

The Department will ensure that it and all grantees provide DBEs the maximum opportunity to compete for and perform contracts and subcontracts financed in whole or in part with Federal funds. The Department will ensure that it and its grantees will not discriminate based on race, color, creed, national origin, age, sex, or handicap in the award and performance of FTA assisted contracts.

Necessary and reasonable steps include:

1. Identifying all contracting opportunities, if any, associated with FTA assistance;
2. Analyzing DBE availability (known and projected) to provide products or services at either the prime or subrecipient level;
3. Establishing contract goals for all FTA assisted contracts based upon the availability analysis;
4. Using good faith efforts to achieve contract goals that are established;
5. Using certified DBE firms.
6. Maintaining records and reports sufficient for verifying steps taken and participation achieved.

The Department will ensure that all grantees meet their responsibility to make a reasonable effort to use DBE firms. The Department will provide information to grantees about the availability of such

firms; monitor grantee contracting activity for DBE compliance; and report to FTA quarterly on grantees that receive FTA funds in excess of threshold amounts.

In an effort to increase DBE participation contracting opportunities, the Department will provide grantees with one DBE certified list. For many grantees, the only explicit federal requirement is to “make a reasonable effort” to use DBE firms.

Each grantee will report contracting activities quarterly using the form attached in Exhibit 17 to the Department. The Department will report quarterly to the FTA regional office.

Since the Department receives more than \$250,000 in one federal fiscal year, and since it receives more than \$100,000 in current federal funds for planning, a DBE goal and plan will be submitted to FTA for the current federal fiscal year, Exhibit 18.

10.6 ADA Reporting

Titles II and III of the Americans with Disabilities Act (ADA) of 1990 provide that no entity shall discriminate against an individual with a disability concerning the provision of transportation services. The law sets specific requirements for vehicle and facility accessibility and the provision of service.

The Department ensures all grantees that are public entities and operate fixed route systems provide paratransit or other special service to individuals with disabilities that are comparable to the level of service provided to individuals without disabilities who use the fixed route system.

The Department will submit to the FTA regional office an Assurance of Nondiscrimination on the Basis of Disability before the award of a grant. The Department will ensure each recipient has provided similar assurance. The Department submits these assurances as part of the annual FTA Assistance Programs Certifications and Assurances.

10.7 Compliance with the Charter Rule

The Department’s current procedures for administering the Charter Rule are the following: After the award of funds, recipients are required to sign a Charter Service Agreement (Exhibit 19). This agreement is an acknowledgement that the recipient may provide community-based charter service as summarized below. See 49 CFR Part 604, Charter Service; Final Rule for complete regulations.

- For Government officials on official government business. The recipient that provides charter service under this section shall be limited annually to 80 charter service hours.
- Qualified human service organizations for the purpose of serving persons with mobility limitations related to advanced age, disabilities, or low income.
- Lease FTA funded equipment and drivers to private charter operators registered on the FTA charter registration website. The registered charter provider must have received a request for charter service that exceeds its available capacity and the registered charter provider has exhausted all the available vehicles of all registered charter providers in the recipient’s geographic service area.
- When no registered charter provider responds to notice from a recipient the recipient may provide the service. The recipient may not provide charter service under this section if a registered charter provider indicates an interest in providing the charter service and the registered charter has informed the recipient of its interest.

- A recipient may provide charter service directly to a customer consistent with an agreement entered into with all registered charter providers in the area.
- A recipient may petition CDOT for an exception to the charter service regulations to provide charter service directly to a customer for events of a regional or national significance, hardship, or unique and time sensitive events.

10.8 Compliance with Common Rule, 49 CFR Part 18 & 19

Grantees are required to comply with the financial requirements of the Common Rule. The Department ensures such compliance by examining the accounting and financial management systems during on-site visits. For new applicants to the programs, the Department requires compliance with the Common Rule as a minimum eligibility criteria for the grant. Applicants with accounting and financial management systems that do not meet the specifications of the Common Rule are considered lacking the capacity to manage public funds by the Department, and therefore are ruled ineligible for FTA funding.

10.9 Drug and Alcohol

FTA grantees are required to be in compliance with the 49 CFR Parts 40 and 655. Grantees are required to submit a yearly Management Information System (MIS) report (Exhibit 19) to the FTA Volpe Center. It is the Department's responsibility to ensure the timeliness and accuracy of the MIS reports submitted by subrecipients. Further, the Department ensures compliance with FTA's Drug & Alcohol testing program by contracting with a noted expert in the field, a Certified Substance Abuse Program Administrator (C-SAPA), to conduct "mock" drug and alcohol audits of selected grantees, program and policy reviews, and educational training on an ongoing basis. The results of the mock audits and policy reviews are forwarded to the Department, which takes corrective action if necessary.

10.10 Debarment and Suspension Certifications

A grantee must certify it is not excluded from federally-assisted transactions, and that none of its "principals," subrecipients, or third-party contractors/subcontractors are barred, suspended, ineligible, or voluntarily excluded from participation in federally-assisted transactions. A grantee receiving \$100,000 or more will be required to submit a Debarment and Suspension Certification (Exhibit 20) to the Department.

PART 11

MANAGEMENT OF CAPITAL EQUIPMENT

11.1 Capital Equipment Purchases

When the Department awards funds for the purchase of state-procured capital equipment, it shall follow the procedures set forth below for the purchasing of such equipment.

1. When funds are awarded for capital equipment, the grantee agrees to participate in the Department's procurement process. The Department shall oversee all capital equipment procurements according to procurement procedures established by the Department (Exhibit 21). The procurement package will include a standard set of specifications, Buy America assurances, pre-award and post-delivery audit certifications, and Federal Motor Vehicle Safety Standards (FMVSS) certifications. The Department will also provide each grantee with an abbreviated procurement package that meets Federal third party contracting requirements.
2. For vehicles to be obtained using a common Invitation for Bid issued by CDOT a procurement package will be posted on the Department's BIDS system detailing the bid process and schedule. The Invitation to Bid (IFB) contains assurance pages and accompanying documentation that bidders must use to certify compliance with the Buy America and bus testing requirements. Responses to the IFB, along with FMVSS, pre-award and post-delivery certifications, are to be returned to the Department by the bid due date delineated on the bid schedule. The Department will award the bid to the lowest responsive bidder.
3. For capital equipment not obtained using an IFB, the grantee must execute a purchase order or letter to proceed to the vendor, but may not do so unless its contract with the Department is fully executed and the grantee has submitted the Procurement Authorization Form of the contract to the Department (refer to contract template language included in Exhibit 10). A copy of the purchase order must be submitted to the Department. Upon delivery of the vehicle, the grantee is responsible for inspecting the vehicle to ensure it meets the specifications set forth in the IFB; the Department will provide assistance if requested.
4. The Department will only reimburse the federal share if and when the grantee executes a Certificate of Procurement and Acceptance with the Department. This Certificate is an addendum to the grantee's Security Agreement with the Department. By completing and submitting the Certificate the grantee certifies that it has inspected and accepted the vehicle, will complete the process necessary to place a lien on the equipment in the amount of the federal share, and give physical possession of the title document to the Department once the title is received. Along with the Certificate, the grantee must submit to the Department a copy of the manufacturer's signed certification of compliance with the bus testing requirements for small vehicles.
5. Any applicant awarded rehabilitation funds must sign an agreement that the agency will abide by the Department's Vehicle Rehabilitation Policies and Procedures. The agency must also agree to submit semi-annual rehabilitation reports to the Department.

6. Grantees must follow the manufacturer's minimum maintenance standards. This requirement includes maintenance of all ADA related equipment. Non vehicle capital shall also be maintained to the manufacturer's minimum maintenance standards. In addition, the grantee must be capable of providing unscheduled maintenance and be able to develop and keep maintenance records. Where feasible and practical, grantees must utilize "certified" repair and maintenance personnel.

When the Department awards funds for the purchase of non-State procured capital equipment, the following regulations must be followed by subrecipients.

1. All grantees are required to comply with third-party contracting standards in accordance with FTA guidelines defined in FTA Circular 4220.1E, *Third-Party Contracting Requirements*, and adhere to standard procurement practices outlined by the FTA in the Best Practices Procurement Manual.
2. All grantees, in accordance with 49 U.S.C 5325(a), *Full and Open Competition*, agree to conduct all procurement transactions in a manner that provides full and open competition. Grantees must also ensure bidder compliance with the following (all may not apply, based on award and amount):
 - Americans with Disabilities Act
 - Buy America
 - Bus Testing
 - Federal Motor Vehicle Safety Standards
 - Davis Bacon Labor Standards
 - Debarment and Suspension
 - Lobbying
 - Bonding Requirements
3. All grantees are required to generate a written record of procurement history to include procurement planning, specifications, and pre-award and post-delivery audit requirements under FTA and State procurement regulations. Agencies need to be prepared to submit these documents to the Department at any time during the procurement process. The grantee's procurement files must be sufficiently detailed to sustain an audit by FTA or by the Department. Files should contain a paper trail that clearly documents goods or services purchased, and documents the associated costs.

The Department will provide guidance in the form of a Capital Procurement Manual, Exhibit 22, to any grantee who receives funding for a non-state procured capital purchase.

11.2 Vehicle Ownership and Retention of Federal Interest

1. When new vehicles are purchased, the Department will not require such equipment to be titled to the Department. However, the Department will retain physical possession of the title or ownership document for the length of time there is an active federal interest in such vehicles. In addition, the grantee shall be required to execute a lien (also referred to as a Security Agreement) in the amount of the federal share of the vehicles in order to ensure that

no liens or obligations are incurred against the federal share of the vehicles. The lien shall be released when there is no longer a federal interest in the vehicles, as set forth below. When funding is provided for the rehabilitation of vehicles, the grantee might not be required to relinquish the title or place a lien on the vehicles.

2. The Department will also protect the federal share of capital equipment by requiring grantees with such equipment to annually provide adequate proof of insurance to the Department, listing the Department as loss payee for that specific equipment.
3. The Department will maintain and update an inventory of all capital equipment purchased or rehabilitated with FTA funds. Each year the Department will mail appropriate grantees a list of capital equipment in their possession that retains a federal interest. Each such grantee must submit an annual Certificate of Use certifying that said equipment is being used in accordance with the Scope of Work in its contract. Grantees must continue to submit the Certification of Use until a capital item has lost its federal interest.
4. The Department will consider there to be a federal interest in capital equipment until such time the item has a market value of less than \$5,000, with the exceptions set forth below. To determine market value, the Department will utilize the following four methodologies:
 - a. For body-on-chassis, or van conversions, the federal interest will expire after the vehicle has a value of less than \$5,000 based on a five-year, straight line depreciation schedule as calculated by the Department. Such calculations shall be based on the date the vehicle was delivered and accepted. For rubber tired trolleys and medium duty transit buses, the federal interest will expire after the vehicle has a value of less than \$5,000 based on seven-year straight line depreciation schedules as calculated by the Department. For heavy duty transit busses, the federal interest will expire after the vehicle has a value of less than \$5,000 based on a twelve-year straight line depreciation schedule, as calculated by the department. Such calculations shall be based on the date the vehicle was delivered and accepted.
 - b. For vehicles which are rehabilitated, the Department shall determine the expiration of the federal interest on a case by case basis, establishing the length of federal interest based on a minimum number of miles to be operated by the vehicle, since the five-year depreciation method might result in the loss of federal interest before the vehicle has been adequately utilized to fulfill the intent of the grant award. In general, grantees shall be required to operate a rehabilitated vehicle an additional 50,000 miles following the rehabilitation. The federal interest shall not expire until those miles are accumulated. If the grantee is unable to operate the vehicle the required number of miles and it is not economically feasible to repair the vehicle, the Department may either require a refund of a prorated portion of the federal interest or may declare the federal interest expired at its discretion.
 - c. Per the FTA Administration Guide for Rural Programs, 2003, for medium-size, light-duty transit buses (approximately 25'-35'), the federal interest is 5 years or 150,000 miles. The federal interest may expire in less than five years if the fair market value is determined to be less than \$5,000 based on the average of three reputable, written appraisals. For rubber tired trolleys, the Department shall consider the federal interest to be the same as the medium-size, medium-duty transit buses (approximately 30')

which is 7 years or 200,000 miles. The federal interest may expire in less than 7 years if the fair market value is determined to be less than \$5,000 based on the average of three reputable, written appraisals.

- d. For facilities purchased with FTA funds, the Department shall determine market value based on the average of three real estate appraisals. Such facilities shall retain their federal interest until their market value is less than \$5,000.
 - e. For other capital equipment, the Department shall determine the expiration of the federal interest on a case by case basis. For items generally costing less than \$15,000, items over \$5,000 but less than \$15,000 shall hold federal interest for at least one year, but the Department may retain federal interest for a period of time after which said equipment may have a market value of less than \$5,000. The Department would be more restrictive than the federal government in such cases, in the interest of ensuring that equipment is used for transportation purposes for a reasonable period of time.
5. When the federal interest expires, the Department will return the vehicle title or ownership documents to the grantee and will cancel its lien. While the grantee is free to dispose of the vehicle at its discretion, it must be noted that, consistent with FTA guidance, the Department's position is that the vehicle should continue to provide its originally intended service if it is in adequate condition.

11.3 Disposal and Transfer of Vehicles

1. Vehicles that retain a federal interest but are not being used in conformance with CDOT's regulations or the contract must be shifted to an appropriate use. This relinquishing of equipment may be voluntary on the part of the grantee or may be the result of legal action by the Department. If a transfer of vehicles to another entity is necessitated, the Department will first attempt to affect a transfer to a transit operator serving the same geographic area as the grantee, provided that organization demonstrates it can and will provide a similar service. If there is no such provider, the Department will make the vehicle available statewide on a competitive basis. Whenever such vehicles are transferred to another party, the Department will simply transfer the federal interest to the new owner of the transferred vehicle via contract. The new owner must reimburse the original grantee the prorated share of the local match, using the appropriate methodology set forth in 11.2 above, unless the original grantee waives such. The grantee may not unilaterally transfer or negotiate a transfer of the vehicle.
2. If there is a compelling reason to sell the vehicle to a party that will not provide the originally intended service, and the Department approves such disposal, the federal interest must be reimbursed to the Department. The amount will be either the prorated federal share calculated using the appropriate methodology set forth above, or will be the percentage of federal participation applied to the actual sale price of the vehicle, whichever is greater.

PART 12.0

GRANT CLOSE OUT

12.1 Grant Close-Out Procedures

The closeout of grants is a multi-step process that will progress from ongoing grant status reviews, to the closeout of grant contracts, and ending in the closeout and audit of the Federal grant. The following specific procedures are part of the grant closeout process.

1. The Department reviews the status of the grant contract monthly.
2. If any contract funds are deobligated, the Department will reobligate those funds to any project requested in that grant year which may have not been funded, was not fully funded, or which is incomplete. The Department will then execute or amend a contract for such funds, but will only do so if the grantee demonstrates the ability to draw down the funds in a timely fashion. In general, the Department will not seek to reobligate funds once the total amount of funds available for reobligation is less than \$500, approximately.
3. Once all grants are closed out, a final Financial Status Report (FSR) is prepared and input into the TEAM system by the Department's Business Office for submittal to FTA. A paper copy of the FSR is prepared by the Business Office, reviewed by the Transit Unit, submitted to the Division of Transportation Development Director for review and approval, and submitted to the Department Controller for review, then forwarded to FTA. Once the final FSR is completed, the Department's Business Office will take the necessary steps to close the grant in the State accounting system.
4. As part of the Department's internal review of grantees' contracts, an examination of grantee audits will be conducted. All grantees receiving in excess of \$300,000 in total federal funding will be contractually required to complete an audit in compliance with OMB A-133 and submit it within 60 days of completion. The Department will maintain a log of such audits.

Upon receipt of an audit, the Department will review the Schedule of Federal Financial Assistance to ensure that funds are properly accounted for relative to the Department's records. The Department also reviews the Auditor's Report on Compliance with Specific Requirements Applicable to Major/Nonmajor Federal Financial Assistance Programs, as well as the Schedule of Findings and Questioned Costs, to determine any problems relative to the grant contract and grantee compliance. If problems are identified, they are discussed with the Department's Audit Branch and with the grantee. The above reviews are conducted by the Department's Transit Unit staff.